

EXHIBIT NO. 3DATE: 1/14/13BILL NO. SB 12

Honorable Members of the Senate Public Health Committee:

My name is Lori Henderson-I recently relocated to Columbus to become a clinic manager for Stillwater Billings Clinic. For fifteen years prior to that, I was the nursing home administrator of Northern Montana Care Center in Havre. I am writing to you as a former nursing home administrator and as a nurse to urge you to support SB 69.

According to the 2010 Elder Investor Fraud Survey from the Investor Protection Trust, one out of every five people over the age of 65 -or 7.3 million older Americans- has been the victim of a financial swindle. Our elderly, frail, and vulnerable residents are being exploited by the very people to whom they have entrusted their finances. Throughout my tenure as a nursing home administrator, I learned that the exploitation of our elderly was becoming more and more common and indeed the above statistic enforces my experience.

I learned that usually, the exploitation occurred in the form of asset transfers when a family member was trying to qualify a loved one for Medicaid to pay for nursing home care. Ultimately, the asset transfers were done for the personal gain of the individual taking the hard earned assets of the elderly adult. It left the elderly person destitute, ineligible for Medicaid, and without the means to seek legal relief for his or her losses.

Approximately three years ago, I was a committee member of House Joint (HJ) Resolution 25 which was charged with the task of examining issues related to Medicaid eligibility. That committee of stakeholders from public and private sectors spent nearly a year working together to identify problems and solutions for elderly consumers who required Medicaid assistance to pay for their nursing home care. Perhaps, one of our most poignant committee discussions involved the use of the hardship provision when Medicaid was denied for inappropriate asset transfers. The hardship provision can be invoked when the elderly person has exhausted all reasonable means to recover assets illegally transferred. He/she then becomes eligible for Medicaid which will pay for medical and nursing home bills. The final result is that it leaves the State of Montana's taxpayers holding the bag for the medical and nursing home bills of the destitute elderly individual. Meanwhile, for a multitude of reasons the person who netted personal gain is rarely brought to justice.

As a result of the hardship provision discussion our journey as the HJ 25 committee led us to actions which resulted in the revision of Montana's Power of Attorney law. This new law, the Uniform Power of Attorney Act requires that Agents meet explicit fiduciary duties when managing the Principal's assets. SB 69 is the next step of that journey. It allows the State of Montana to hold individuals financially accountable for their wrongful acts.

SB 69 is tailored after a Washington state law that authorities there say has served as a deterrent to improper transfers. The bill simply provides that when assets are transferred within the 5 year look back period in order to qualify for Medicaid, and the state Medicaid program pays for care because of the hardship provisions, the state can ask the individual who received the asset to return it and if that doesn't happen, the state can take the individual to court. The court can impose a penalty of up to 150% of what the state paid in Medicaid benefits. This bill is largely seen as a deterrent to these transfers - once attorneys who do estate planning are aware of the penalties involved and make the information available to clients.

At long last Montana will have the mechanism to recoup costs from those whose selfish acts result in personal gain. Please support SB-69. Montana needs this law. More importantly, its vulnerable individuals need this law. And last but not least, I believe that it will give our elderly and those who depend on this process some peace of mind. Further, it will place Montana among those States that have the foresight to create a consistent message to those who would do ill-will against our elderly, and disabled.

Thank you,

Lori Henderson, RN, BSN, NHA

P.O. Box 1011

Columbus, MT 59019